authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes.

TEXT OF AMENDMENTS

SA 5041. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. BORDER RELIEF GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(c) USE OF FUNDS.—Grants awarded pursuant to subsection (b) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(e) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Homeland Security.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (e).

(g) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

SEC. 7. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in section 6 shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

SA 5042. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 16, strike the period at the end and insert the following: ''; and

(3) the implementation of those measures described in the Comprehensive Immigration Reform Act of 2006, as passed by the Senate on May 25, 2006, that the Secretary determines to be necessary and appropriate to achieve or maintain operational control over the international land and maritime borders of the United States.''.

SA 5043. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE I—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Border Infrastructure and Technology Modernization Act''.

SEC. 102. DEFINITIONS.

In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 103. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the

joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 104; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 104. NATIONAL LAND BORDER SECURITY PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary of Homeland Security, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary of Homeland Security may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 105. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary of Homeland Security, shall develop a plan to expand the size and scope, including personnel, of the Customs–Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs–Trade Partnership Against Terrorism program, which has been successfully implemented along the northern border, along the southern border.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 106. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.—Under the technology demonstration program, the Secretary of Homeland Security shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary of Homeland Security shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 103(a);

(2) to carry out section 103(d)—

(A) $100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 105(a)—

(A) $30,000,000 for fiscal year 2007, of which $5,000,000 shall be made available to fund the demonstration project established in section 106(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(4) to carry out section 105(b)—

(A) $5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 106, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) INTERNATIONAL AGREEMENTS.—Amounts authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

SA 5044. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. COOPERATION WITH THE GOVERNMENT OF MEXICO.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary of Homeland Security and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 5045. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. DEPUTY UNITED STATES MARSHALS.

(a) IN GENERAL.—In each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SA 5046. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 18, strike ''prevention'' and all that follows through line 21, and insert the following: ''effective prevention of unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband, as determined by the Secretary of Homeland Security.''.

SA 5047. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Prevention Act of 2006''.

SEC. 2. PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.

(a) OFFENSE OF REWARDING OR FACILITATING INTERNATIONAL TERRORIST ACTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following section:

''§ 2339E. Providing material support to international terrorism

''(a) DEFINITIONS.—In this section:

''(1) The term 'material support or resources' has the same meaning as in section 2339A(b).

''(2) The term 'the perpetrator of an act' includes any person who—

''(A) commits the act;

''(B) aids, abets, counsels, commands, induces, or procures its commission; or

''(C) attempts, plots, or conspires to commit the act.

''(3) The term 'international terrorism' has the same meaning as in section 2331.

''(4) The term 'facility of interstate or foreign commerce' has the same meaning as in section 1958(b)(2).

''(5) The term 'serious bodily injury' has the same meaning as in section 1365.

''(6) The term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

''(b) PROHIBITION.—Whoever, in a circumstance provided in subsection (c), provides material support or resources to the perpetrator of an act of international terrorism, or to a family member or other person associated with such perpetrator, with the intent to facilitate, reward, or encourage that act or other acts of international terrorism, shall be fined under this title and imprisoned for any term of years not less than 10 or for life, and, if death results, shall be imprisoned for any term of years not less than 30 or for life.

''(c) JURISDICTIONAL BASES.—A circumstance referred to in subsection (b) is—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense involves the use of the mails or a facility of interstate or foreign commerce;

''(3) an offender intends to facilitate, reward, or encourage an act of international terrorism that affects interstate or foreign commerce or would have affected interstate or foreign commerce had it been consummated;

''(4) an offender intends to facilitate, reward, or encourage an act of international terrorism that violates the criminal laws of the United States;

''(5) an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of the United States Government;

''(6) an offender intends to facilitate, reward, or encourage an act of international terrorism that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

''(7) an offender intends to facilitate, reward, or encourage an act of international terrorism that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

''(8) the offense occurs in whole or in part within the United States, and an offender intends to facilitate, reward or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of a foreign government; or

''(9) the offense occurs in whole or in part outside of the United States, and an offender is a national of the United States, a stateless person whose habitual residence is in the United States, or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions).''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) TABLE OF SECTIONS.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339D. Receiving military-type training from a foreign terrorist organization.

''2339E. Providing material support to international terrorism.''.

(B) OTHER AMENDMENT.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by striking all after ''2339C'' and inserting ''(relating to financing of terrorism), 2339E (relating to providing material support to international terrorism), or 2340A (relating to torture);''.

(b) INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORISTS.—

(1) PROVIDING MATERIAL SUPPORT.—Section 2339A(a) of title 18, United States Code, is amended by striking '', imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for any term of years not less than 10 or for life, and, if the death of any person results, shall be imprisoned for any term of years not less than 25 or for life.''.

(2) PROVIDING MATERIAL SUPPORT OR RESOURCES TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for any term of years not less than 20 or for life.''.

(3) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D of title 18, United States Code, is amended by striking ''or imprisoned for ten years, or both.'' and inserting ''and imprisoned for not less than 3 years and not more than 15 years.''.

(c) EXCEPTIONS TO PROHIBITION.—Section 2339A(b)(1) of title 18, United States Code, is amended by striking '', except medicine or religious materials''.

(d) ADDITION OF ATTEMPTS AND CONSPIRACIES TO AN OFFENSE RELATING TO MILITARY TRAINING.—Section 2339D of title 18, United States Code, is amended by inserting '', or attempts or conspires to receive,'' after ''receives''.

(e) DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this section, is further amended by adding at the end the following:

''§ 2339F. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government,

be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—In this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, as amended by this section, is further amended by adding at the end the following:

''2339F. Denial of Federal benefits to terrorists.''.

SEC. 3. IMPROVEMENTS TO THE CLASSIFIED INFORMATION PROCEDURES ACT.

(a) SHORT TITLE.—This section may be cited as the ''Classified Information Procedures Reform Act of 2006''.

(b) INTERLOCUTORY APPEALS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by adding at the end ''The Government's right to appeal under this section applies without regard to whether the order appealed from was entered under this Act.''.

(c) EX PARTE AUTHORIZATIONS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the second sentence—

(A) by striking ''may'' and inserting ''shall''; and

(B) by striking ''written statement to be inspected'' and inserting ''statement to be made ex parte and to be considered''; and

(2) in the third sentence—

(A) by striking ''If the court enters an order granting relief following such an ex parte showing, the'' and inserting ''The''; and

(B) by inserting '', as well as any summary of the classified information the defendant seeks to obtain,'' after ''text of the statement of the United States''.

(d) APPLICATION OF CLASSIFIED INFORMATION PROCEDURES ACT TO NON-DOCUMENTARY INFORMATION.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting '', AND ACCESS TO,'' after ''OF'';

(2) by inserting ''(a) DISCOVERY OF CLASSIFIED INFORMATION FROM DOCUMENTS.—'' before the first sentence; and

(3) by adding at the end the following:

''(b) ACCESS TO OTHER CLASSIFIED INFORMATION.—

''(1) If the defendant seeks access through deposition under the Federal Rules of Criminal Procedure or otherwise to non-documentary information from a potential witness or other person which he knows or reasonably believes is classified, he shall notify the attorney for the United States and the district court in writing. Such notice shall specify with particularity the classified information sought by the defendant and the legal basis for such access. At a time set by the court, the United States may oppose access to the classified information.

''(2) If, after consideration of any objection raised by the United States, including any objection asserted on the basis of privilege, the court determines that the defendant is legally entitled to have access to the information specified in the notice required by paragraph (1), the United States may request the substitution of a summary of the classified information or the substitution of a statement admitting relevant facts that the classified information would tend to prove.

''(3) The court shall permit the United States to make its objection to access or its request for such substitution in the form of a statement to be made ex parte and to be considered by the court alone. The entire text of the statement of the United States, as well as any summary of the classified information the defendant seeks to obtain, shall be sealed and preserved in the records of the court and made available to the appellate court in the event of an appeal.

''(4) The court shall grant the request of the United States to substitute a summary of the classified information or to substitute a statement admitting relevant facts that the classified information would tend to prove if it finds that the summary or statement will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

''(5) A defendant may not obtain access to classified information subject to this subsection except as provided in this subsection. Any proceeding, whether by deposition under the Federal Rules of Criminal Procedure or otherwise, in which a defendant seeks to obtain access to such classified information not previously authorized by a court for disclosure under this subsection must be discontinued or may proceed only as to lines of inquiry not involving such classified information.''.

SEC. 4. IMPROVEMENTS TO THE TERRORIST HOAX STATUTE.

(a) HOAX STATUTE.—Section 1038 of title 18, United States Code, is amended—

(1) in subsections (a)(1) and (b), by striking ''a violation'' and all that follows through ''title 49'' and inserting ''an offense listed under section 2332b(g)(5)(B) of this title''; and

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking '', imprisoned not more than 5 years, or both'' and inserting ''and imprisoned for not less than 2 years nor more than 10 years'';

(B) in subparagraph (B), by striking '', imprisoned not more than 20 years, or both'' and inserting ''and imprisoned for not less than 5 years nor more than 25 years''; and

(C) in subparagraph (C), by striking '', imprisoned for any term of years or for life, or both'' and inserting ''and imprisoned for any term of years not less than 10 or for life''.

(b) THREATENING COMMUNICATIONS.—

(1) MAILED WITHIN THE UNITED STATES.—Section 876 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

''(e) For purposes of this section, the term 'addressed to any other person' includes an individual (other than the sender), a corporation or other legal person, and a government or agency or component thereof.''.

(2) MAILED TO A FOREIGN COUNTRY.—Section 877 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

''For purposes of this section, the term 'addressed to any person' includes an individual, a corporation or other legal person, and a government or agency or component thereof.''.

SEC. 5. TERRORIST MURDERS, KIDNAPPINGS, AND ASSAULTS.

(a) HOMICIDE.—Section 2332(a) of title 18, United States Code, is amended—

(1) by inserting '', or attempts or conspires to kill,'' after ''Whoever kills''; and

(2) in paragraph (1), by striking ''this title'' and all that follows and inserting ''this title and punished by death or imprisonment for any term of years not less than 30 or for life;''

(b) KIDNAPPING.—Section 2332(b) of title 18, United States Code, is amended to read as follows:

''(b) KIDNAPPING.—Whoever outside the United States unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away, or attempts or conspires to seize, confine, inveigle, decoy, kidnap, abduct or carry away, a national of the United States, shall be fined under this title and punished by imprisonment for any term of years not less than 20 or for life; and, if the death of any person results, shall be fined under this title and punished by death or imprisonment for life.''.

(c) OTHER CONDUCT.—Section 2332(c) of title 18, United States Code, is amended—

(1) by inserting ''(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)'' after ''injury'' in paragraphs (1) and (2); and

(2) in the matter following paragraph (2), by striking ''or imprisoned'' and all that follows and inserting ''and imprisoned for any term of years not less than 10 or for life.''.

(d) TERRORIST OFFENSES RESULTING IN DEATH.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

''§ 2339G. Terrorist offenses resulting in death

''(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years not less than 20 or for life.

''(b) In this section, the term 'terrorist offense' means—

''(1) a felony offense that is—

''(A) a Federal crime of terrorism as defined in section 2332b(g), other than an offense under section 1363; or

''(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

''(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

''2339G. Terrorist offenses resulting in death.''.

(e) DEATH PENALTIES.—

(1) MASS DESTRUCTION.—Section 832 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''not more than 20 years.'' and inserting ''any term of years not less than 15 or for life.''; and

(B) in subsection (c), by striking ''or for life.'' and inserting ''not less than 15 or for life and, if the death of any person results, shall be punished by death or imprisonment for life.''

(2) MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.—Section 2332g(c)(3) of title 18, United States Code, is amended by inserting ''death or'' before ''imprisonment for life''.

(3) NUCLEAR MATERIAL.—Section 222b. of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by inserting ''death or'' before ''imprisonment for life'' the last place it appears.

(4) RADIOLOGICAL DISPERSAL DEVICES.—Section 2332h(c)(3) of title 18, United States Code, is amended by inserting ''death or'' before ''imprisonment for life''.

(5) VARIOLA VIRUSES.—Section 175c(c)(3) of title 18, United States Code, is amended by inserting ''death or'' before ''imprisonment for life''.

SEC. 6. INVESTIGATION OF TERRORIST CRIMES.

(a) NONDISCLOSURE OF FISA INVESTIGATIONS.—The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting ''(other than in proceedings or other civil matters under the immigration laws, as that term is defined in

section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))'' after ''authority of the United States'':

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

(b) MULTIDISTRICT SEARCH WARRANTS IN TERRORISM INVESTIGATIONS.—Rule 41(b)(3) of the Federal Rules of Criminal Procedure is amended to read as follows:

''(3) a magistrate judge—in an investigation of—

''(A) a Federal crime of terrorism (as defined in section 2332b(g)(g) of title 18, United States Code); or

''(B) an offense under section 1001 or 1505 of title 18, United States Code, relating to information or purported information concerning a Federal crime of terrorism (as defined in section 2332b(g)(5) of title 18, United States Code)—having authority in any district in which activities related to the Federal crime of terrorism or offense may have occurred, may issue a warrant for a person or property within or outside that district.''.

(c) INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking ''8 years'' and inserting ''10 years''.

SA 5048. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 1, line 8, strike ''18 months'' and insert ''18 months and 2 days.''

SA 5049. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5048 submitted by Mr. FRIST and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

Strike ''18 months and 2 days'' and insert ''18 months and 1 day.''

SA 5050. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of the bill, add the following: The effective date shall be 5 days after the date of enactment.

SA 5051. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5050 submitted by Mr. FRIST and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On line 2 of the amendment, strike ''5 days'' and insert ''1 day.''

SA 5052. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of section 2, add the following: ''This section shall become effective 5 days after the date of enactment.

SA 5053. Mr. CHAMBLISS submitted an amendment intended to be proposed to him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE II—AGRICULTURAL EMPLOYMENT AND WORKFORCE PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Agricultural Employment and Workforce Protection Act of 2006''.

Subtitle A—Border Security

SEC. 211. COMPREHENSIVE PLAN TO CONTROL THE BORDERS OF THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Homeland Security shall prepare and submit to Congress, at the earliest practicable date, a comprehensive plan to—

(1) establish operational control of the borders of the United States; and

(2) effectively enforce the immigration laws of the United States in the interior of the United States.

(b) CONTENTS.—The plan described in subsection (a) shall include—

(1) detailed strategies;

(2) time lines for implementation; and

(3) cost estimates for such activities.

(c) INTERIM PLAN.—The mandates contained in this subtitle shall serve as an interim plan until Congress enacts legislation to implement the comprehensive plan submitted by the Secretary of Homeland Security under subsection (a).

SEC. 212. USE OF DEPARTMENT OF DEFENSE EQUIPMENT FOR SURVEILLANCE OF INTERNATIONAL LAND BORDERS OF THE UNITED STATES.

(a) AVAILABILITY OF EQUIPMENT.—The Secretary of Homeland Security, in collaboration with the Secretary of Defense, shall develop and implement a plan to provide military support to civilian law enforcement agencies, including the use of unmanned aerial vehicles, other surveillance equipment, and other equipment of the Department of Defense, to assist the surveillance activities of the Department of Homeland Security at and near the international land borders of the United States.

(b) REPORTS.—

(1) INITIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall submit a joint report to Congress, which describes the use of Department of Defense equipment to assist the surveillance efforts of the Department of Homeland Security and to support the plan developed under subsection (a).

(2) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the Secretary of Homeland Security can procure the equipment necessary to achieve operational control of the international land borders of the United States, the Secretary of Homeland Security and the Secretary of Defense shall submit joint reports to Congress that describe—

(A) the types of equipment and other support utilized for border security; and

(B) the effectiveness of such equipment and support.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 213. PORTS OF ENTRY.

(a) CONSTRUCTION AUTHORIZED.—The Secretary of Homeland Security may construct not more than 30 additional land ports of entry along the northern and southern international land borders of the United States at locations to be determined by the Secretary if such construction will enhance the border security of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

SEC. 214. ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS.

In addition to the positions authorized by section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), the Secretary of Homeland Security shall, for each of the fiscal years between fiscal year 2007 and 2011, increase by no less than 250 the number of positions for full-time active duty Customs and Border Protection Officers.

SEC. 215. INTERIOR ENFORCEMENT.

(a) STATE AND LOCAL IMMIGRATION LAW ENFORCEMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, appropriately trained law enforcement personnel of a State or a unit of local government are authorized to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel.

(2) REIMBURSEMENT OF COSTS.—The Secretary of Homeland Security shall reimburse States and units of local government for all reasonable costs incurred by that State or local government to carry out the activities described in paragraph (1).

(b) FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.—Title II of the Immigration and Nationality Act is amended by adding after section 240C the following:

''TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY

''SEC. 240D. (a) IN GENERAL.—If the head of a law enforcement entity of a State, or a political subdivision of a State, requests the Secretary of Homeland Security to take an illegal alien into Federal custody, the Secretary shall—

''(1) not later than 72 hours after such request is received from the State, take such alien into the custody of the Federal Government and incarcerate the alien; or

''(2) request the relevant State or local law enforcement agency to temporarily detain or transport the illegal alien to a location for transfer to Federal custody.

''(b) DESIGNATED INCARCERATION FACILITY.—The Secretary of Homeland Security shall designate not less than 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of criminal or illegal aliens to the Department of Homeland Security.

''(c) REIMBURSEMENT TO STATES AND LOCAL GOVERNMENTS.—The Department of Homeland Security shall reimburse each State or a political subdivision of a State for all reasonable expenses incurred by the State or political subdivision in the detention and transportation of a criminal or illegal alien.''.

(c) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATIVE PERSONNEL.—

(1) ADDITIONAL POSITIONS AUTHORIZED.—In addition to the positions authorized by section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), the Secretary of Homeland Security shall, for each of fiscal years 2007 through 2011, increase by not less than 400 the number of investigative personnel within the Department of Homeland Security responsible for investigating immigration status violations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(d) LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide the National Crime Information Center of the Federal Bureau of Investigation (referred to in this section as the ''NCIC'') with information related to—

(A) any alien against whom a final order of removal has been issued;

(B) any alien who is subject to a voluntary departure agreement that has become invalid under section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)); and

(C) any alien whose visa has been revoked.

(2) REQUIREMENT TO PROVIDE AND USE INFORMATION.—The information provided to the NCIC under paragraph (1) shall be entered into the Immigration Violators File of the NCIC database if a name and date of birth are available for the individual, regardless of whether the alien received notice of a final order of removal or the alien has already been removed.

(3) REMOVAL OF INFORMATION.—If an individual is granted cancellation of removal under section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b) or is granted permission to legally enter the United States after a voluntary departure under section 240B of such Act (8 U.S.C. 1229c), any information entered into the NCIC database in accordance with this subsection shall be promptly removed.

(e) INCREASING FEDERAL DETENTION SPACE.—

(1) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(A) IN GENERAL.—In addition to facilities being used for the detention of aliens as of the date of enactment of this Act, the Secretary of Homeland Security shall construct or acquire 20 detention facilities in the United States with sufficient capacity to detain a combined total of not less than 200,000 individuals at any time. Such facilities shall be used for aliens detained pending removal or a decision on removal of such aliens from the United States.

(B) DETERMINATION OF LOCATION.—The location of each detention facility built or acquired pursuant to this paragraph shall—

(i) be determined by the senior officer responsible for detention and removal operations of the Department of Homeland Security, subject to the approval of the Secretary of Homeland Security; and

(ii) enable the Department to increase, to the maximum extent practicable, the annual rate and level of removals of illegal aliens from the United States.

(C) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this paragraph, the Secretary of Homeland Security shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subparagraph (A).

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 216. EXPANDING CATEGORY OF INADMISSIBLE ALIENS.

(a) CRIMINAL STREET GANGS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(J) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.''.

(b) DEPORTING CRIMINAL STREET GANG MEMBERS.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.''.

(c) CRIMINAL ALIENS.—Any alien convicted of a felony or a misdemeanor in the United States is ineligible to receive a visa and ineligible to be admitted to the United States.

Subtitle B—Temporary H–2A Workers

SEC. 221. DEFINITION.

Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended—

(1) by striking ''and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954'' and inserting '', which shall include labor and services relating to commodities, livestock, dairy, forestry, landscaping, fishing, and the processing of meat, poultry, and fish, and agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986),''; and

(2) by striking '', of a temporary or seasonal nature''.

SEC. 222. ADMISSION OF TEMPORARY H–2A WORKERS.

(a) PROCEDURE FOR ADMISSION.—

(1) IN GENERAL.—Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

''ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218. (a) DEFINITIONS.—In this section and section 218A:

''(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the work site or physical location where the work of the H–2A worker is or will be performed. If such work site or location is within a Metropolitan Statistical Area, any place within such area shall be considered to be within the area of employment.

''(2) DISPLACE.—In the case of a petition with respect to an H–2A worker filed by an employer, the employer 'displaces' a United States worker from a job if the employer lays off the worker from a job that is essentially equivalent to the job for which the H-2A worker is sought. A job shall not be considered to be essentially equivalent to another job unless the job—

''(A) involves essentially the same responsibilities as the other job;

''(B) was held by a United States worker with substantially equivalent qualifications and experience; and

''(C) is located in the same area of employment as the other job.

''(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to the employment of the individual.

''(4) EMPLOYER.—The term 'employer' means an employer who hires workers to perform agricultural employment.

''(5) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(6) LAY OFF.—

''(A) IN GENERAL.—The term 'lay off'—

''(i) means to cause a worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (b)); and

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (h)(2), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(7) LEVEL II H–2A WORKER.—The term 'Level II H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) who—

''(A) has been employed as an H–2A worker for at least 3 years;

''(B) has not violated a material term or condition of employment as an H–2A worker;

''(C) works in a supervisory capacity; and

''(D) meets minimum skill levels in the occupation in which they are employed, as determined, by regulation, by the Secretary of Labor, based on surveys conducted by State workforce agencies.

''(8) PREVAILING WAGE.—The term 'prevailing wage' means the wage rate that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

''(9) UNITED STATES WORKER.—The term 'United States worker' means any worker who is a national of the United States, an alien lawfully admitted for permanent residence, and any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

''(B) an alien provided blue card status under section 218B.

''(b) APPLICATION.—An alien may not be admitted as an H–2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

''(1) TEMPORARY WORK OR SERVICES.—

''(A) IN GENERAL.—The employer is seeking to employ a specific number of agricultural workers on a temporary basis and will provide compensation to such workers at a specified wage rate and under specified conditions.

''(B) SKILLED WORKERS.—If the worker is a Level II H–2A worker, the employer will recruit the worker separately and the attestation will delineate separate wage rate and conditions of employment for such worker.

''(C) DEFINITION.—For purposes of this paragraph, a worker is employed on a temporary basis if the employer intends to employ the worker for an 11–month contract period.

''(2) BENEFITS, WAGES, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (k) to all workers employed in the jobs for which the H–2A worker is sought and to all other temporary workers in the same occupation at the place of employment.

''(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment of the H–2A worker and during the 30-day period immediately preceding such period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(4) RECRUITMENT.—

''(A) IN GENERAL.—The employer—

''(i) conducted adequate recruitment in the area of employment before filing the attestation; and

''(ii) was unsuccessful in locating a qualified United States worker for the job opportunity for which the H–2A worker is sought.

''(B) OTHER REQUIREMENTS.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer places—

''(i) a job order with the America's Job Bank Program of the Department of Labor; and

''(ii) a Sunday advertisement in a newspaper of general circulation that is likely to be patronized by a potential worker in the area of intended employment.

''(C) ADVERTISEMENT REQUIREMENT.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

''(i) names the employer;

''(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(v) states the rate of pay, which shall not be less than the wage paid for the occupation in the area of intended employment; and

''(vi) offers wages, terms, and conditions of employment, which are at least as favorable to those offered to the alien.

''(D) END OF RECRUITMENT REQUIREMENT.—The requirement to recruit United States workers shall terminate on the first day of the contract period that work begins.

''(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is sought to any eligible United States worker who—

''(A) applies;

''(B) is at least as qualified for the job as the nonimmigrant; and

''(C) will be available at the time and place of need.

''(6) PROVISION OF INSURANCE.—If the job for which the H–2A worker is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(7) STRIKE OR LOCKOUT.—There is not a strike or lockout in the course of a labor dispute which, under regulations promulgated by the Secretary of Labor, precludes the hiring of H–2A workers.

''(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

''(c) PUBLIC EXAMINATION.—Not later than 1 working day after the date on which a petition under this section is filed, the employer shall make a copy of each such petition (and any necessary accompanying documents) available for public examination, at the employer's principal place of business or worksite.

''(d) LIST.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall maintain a list of the petitions filed under subsection (b), which shall—

''(A) be sorted by employer; and

''(B) include the number of H–2A workers sought, the wage rate, the period of intended employment, and the date of need for each alien.

''(2) AVAILABILITY.—The Secretary of Homeland Security shall, at least monthly, submit a copy of the list described in paragraph (1) to the Secretary of Labor, who shall make the list available for public examination.

''(e) PETITIONING FOR ADMISSION.—

''(1) IN GENERAL.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker shall file with the Secretary of Homeland Security a petition that includes the attestations described in subsection (b).

''(2) CONSIDERATION OF PETITIONS.—For each petition filed and considered under this subsection—

''(A) the Secretary of Homeland Security may not require such petition to be filed more than 28 days before the first date the employer requires the labor or services of the H–2A worker; and

''(B) unless the Secretary of Homeland Security determines that the petition is incomplete or obviously inaccurate, the Secretary, not later than 7 days after the date on which such petition was filed, shall either approve or deny the petition.

''(3) EXPEDITED ADJUDICATION.—The Secretary of Homeland Security shall—

''(A) establish a procedure for expedited adjudication of petitions filed under this subsection; and

''(B) not later than 7 working days after such filing, transmit, by fax, cable, or other means assuring expedited delivery, a copy of notice of action on the petition—

''(i) in the case of approved petitions, to the petitioner, the Secretary of Labor, and to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States;

''(ii) in the case of denied petitions, to the petitioner, including reasons for the denial and instructions on how to appeal such denial.

''(4) PETITION AGREEMENTS.—By filing an H–2A petition, a petitioner and each employer consents to allow access to the site where the labor is being performed for the purpose of determining compliance with H–2A requirements.

''(f) ROLES OF AGRICULTURAL ASSOCIATIONS.—

''(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural employers which use agricultural services.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its members to perform agricultural services of a temporary nature for which the petition was approved.

''(3) STATEMENT OF LIABILITY.—The petition shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another employer authorized to employ H–2A workers if the other employer displaces a United States worker in violation of this section.

''(4) TREATMENT OF VIOLATIONS.—

''(A) INDIVIDUAL MEMBER.—If an individual member of a joint employer association violates any condition for approval with respect to the member's petition, the Secretary of Homeland Security shall deny such petition only with respect to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

''(B) ASSOCIATION OF AGRICULTURAL EMPLOYERS.—

''(i) JOINT EMPLOYER.—If an association representing agricultural employers as a joint employer violates any condition for approval with respect to the association's petition, the Secretary of Homeland Security shall deny such petition only with respect to the association and may not apply the denial to any individual member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

''(ii) SOLE EMPLOYER.—If an association of agricultural employers approved as a sole employer violates any condition for approval with respect to the association's petition, no individual member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such member employs such aliens in the occupation in question directly or through an association which is a joint employer of such workers with the member.

''(g) EXPEDITED ADMINISTRATIVE APPEALS.—The Secretary of Homeland Security shall issue regulations to provide for an expedited procedure—

''(1) for the review of a denial of a petition under this section by the Secretary; or

''(2) at the applicant's request, for a de novo administrative hearing respecting the denial.

''(h) MISCELLANEOUS PROVISIONS.—

''(1) REQUIREMENTS FOR PLACEMENT OF H–2A WORKERS WITH OTHER EMPLOYERS.—A nonimmigrant who is admitted into the United States as an H–2A worker may be transferred to another employer that has attested to the Secretary of Homeland Security that the employer has filed a petition under this section and is in compliance with this section. The Secretary of Homeland Security and the Secretary of State shall issue regulations to establish a process for the approval and reissuance of visas for transferred H–2A workers, as necessary.

''(2) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of H–2A workers as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(3) PREEMPTION OF STATE LAWS.—The provisions of subsection (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

''(4) FEES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee, in accordance with subparagraph (B), to recover the reasonable cost of processing petitions.

''(B) FEE BY TYPE OF EMPLOYEE.—

''(i) SINGLE EMPLOYER.—An employer whose petition for temporary alien agricultural workers is approved shall, for each approved petition, pay a fee that—

''(I) subject to subclause (II), is equal to $100 plus $10 for each approved H–2A worker; and

''(II) does not exceed $1,000.

''(ii) ASSOCIATION.—Each employer-member of a joint employer association whose petition for temporary agricultural aliens is approved shall, for each such approved petition, pay a fee that—

''(I) subject to subclause (II), is equal to $100 plus $10 for each approved H–2A worker; and

''(II) does not exceed $1,000.

''(iii) LIMITATION ON ASSOCIATION FEES.—A joint employer association under clause (ii) shall not be charged a separate fee.

''(C) METHOD OF PAYMENT.—The fees collected under this paragraph shall be paid by check or money order to the Department of Homeland Security. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

''(D) INCREASE IN FEES.—For calendar year 2007 and each subsequent calendar year, the dollar amounts in subparagraph (B) may be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the percentage by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2005.

''(5) EMPLOYMENT VERIFICATION PROGRAM.—

''(A) IN GENERAL.—Not later than 12 months after the date of enactment of this paragraph, the Secretary of Homeland Security shall establish a mandatory employment verification program for all employers of H–2A workers to verify the eligibility of all individuals hired by each such employer, including those who present an H–2A visa to work in the United States.

''(B) EMPLOYER COMPLIANCE.—Each employer of an H–2A worker shall comply with the requirements promulgated by the Secretary of Homeland Security to verify the identity and employment eligibility of all individuals hired.

''(C) REGULATIONS.—In carrying out the program under this paragraph, the Secretary of Homeland Security shall promulgate regulations to require each employer to verify the employment eligibility of each employee hired through—

''(i) a secure Internet site;

''(ii) a machine capable of reading the H–2A visa, which shall serve as the identification and employment eligibility document for each H–2A alien; or

''(iii) a toll-free telephone number to check the accuracy of any social security number presented to the employer.

''(6) EMPLOYER-BASED APPLICATION FOR PERMANENT RESIDENCE.—

''(A) IN GENERAL.—The employer of a Level II H–2A worker who has been employed in such status for not less than 5 years may file an application for an employment-based adjustment of status under section 245(k) for such worker.

''(B) EFFECT OF APPLICATION.—A Level II H–2A worker for whom an application is filed under subparagraph (A) may continue to be employed in such status until—

''(i) such application has been adjudicated; or

''(ii) such worker has violated any provision of this section.

''(i) FAILURE TO MEET CONDITIONS.—

''(1) IN GENERAL.—The Secretary of Labor shall be responsible for conducting investigations and random audits of employer work sites to ensure compliance with the requirements of the H–2A program and all other requirements under this Act. All monetary fines levied against violating employers shall be paid to the Department of Labor and used to enhance the Department of Labor's investigatory and auditing power.

''(2) PENALTIES FOR FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet any condition under subsection (b), or a material misrepresentation of fact in a petition under subsection (b)—

''(A) the Secretary of Labor—

''(i) shall notify the Secretary of Homeland Security of such finding; and

''(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $1,000 per violation, as the Secretary of Labor determines to be appropriate; and

''(B) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

''(3) PENALTIES FOR WILLFUL FAILURE.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (b) or a willful misrepresentation of a material fact in a petition under subsection (b)—

''(A) the Secretary of Labor—

''(i) shall notify the Secretary of Homeland Security of such finding; and

''(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $5,000 per violation, as the Secretary of Labor determines to be appropriate; and

''(B) the Secretary of Homeland Security may—

''(i) disqualify the employer from the employment of H–2A workers for a period of 2 years;

''(ii) for a second violation, disqualify the employer from the employment of H–2A workers for a period of 5 years; and

''(iii) for a third violation, permanently disqualify the employer from the employment of H–2A workers.

''(4) PENALTIES FOR DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (b) or a willful misrepresentation of a material fact in a petition under subsection (b), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (b), or during the period of 30 days preceding such period of employment—

''(A) the Secretary of Labor—

''(i) shall notify the Secretary of Homeland Security of such finding; and

''(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $15,000 per violation, as the Secretary of Labor determines to be appropriate; and

''(B) the Secretary of Homeland Security may—

''(i) disqualify the employer from the employment of H–2A workers for a period of 5 years; and

''(ii) for a second violation, permanently disqualify the employer from the employment of H–2A workers.

''(5) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor may not impose total civil money penalties with respect to a petition under subsection (b) in excess of $90,000.

''(j) FAILURE TO PAY WAGES OR REQUIRED BENEFITS.—

''(1) IN GENERAL.—The Secretary of Labor shall be responsible for conducting investigations and random audits of employer work sites to ensure compliance with the requirements of the H–2A program.

''(2) ASSESSMENT.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment attested by the employer under subsection (b)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question.

''(3) AMOUNT.—The back wages or other required benefits described in paragraph (2)—

''(A) shall be equal to the difference between the amount that should have been paid and the amount that was paid to such worker; and

''(B) shall be distributed to the worker to whom such wages are due.

''(k) MINIMUM WAGES, BENEFITS, AND WORKING CONDITIONS.—

''(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

''(A) IN GENERAL.—Each employer seeking to hire United States workers shall offer such workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. No job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers. The benefits, wages, and other terms and conditions of employment described in this subsection shall be provided in connection with employment under this section.

''(B) INTERPRETATION.—Every interpretation and determination made under this section or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made so that—

''(i) the services of workers to their employers and the employment opportunities afforded to workers by the employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment—

''(I) mutually benefit such workers, as well as their families, and employers; and

''(II) principally benefit neither employer nor employee; and

''(ii) employment opportunities within the United States benefit the United States economy.

''(2) REQUIRED WAGES.—

''(A) IN GENERAL.—Each employer applying for workers under subsection (b) shall pay not less than the greater of—

''(i) the prevailing wage to all workers in the occupation for which the employer has applied for workers; or

''(ii) the applicable State minimum wage.

''(B) WAGES FOR LEVEL II H–2A WORKERS.—Each employer applying for Level II H–2A workers under subsection (b) shall pay such workers not less than the prevailing wage, as determined by the Secretary of Labor.

''(C) DETERMINATION OF WAGES.—An employer seeking to comply with subparagraph (A) may—

''(i) request and obtain a prevailing wage determination from the State employment agency; or

''(ii) rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of employment that has been conducted or funded by the employer or a group of employers, using the methodology used by the Secretary of Labor to establish Occupational Employment and Wage estimate, and any other criteria specified in regulations issued by the Secretary of Labor.

''(D) COMPLIANCE.—An employer shall be considered to have complied with the requirement under subparagraph (A) if the employer—

''(i)(I) obtains a prevailing wage determination under subparagraph (C)(i); or

''(II) relies on a qualifying survey of prevailing wages; and

''(ii) pays such prevailing wage.

''(3) HOUSING REQUIREMENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (F), each employer applying for workers under subsection (b) shall offer to provide housing at no cost to—

''(i) all workers in job opportunities for which the employer has applied under subsection (b); and

''(ii) all other workers in the same occupation at the same place of employment, whose place of residence is beyond normal commuting distance.

''(B) COMPLIANCE.—An employer meets the requirement under subparagraph (A) if the employer—

''(i) provides the workers with housing that meets applicable Federal standards for temporary labor camps; or

''(ii) secures housing for the workers that—

''(I) meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation; or

''(II) in the absence of applicable local standards, meets State standards for rental or public accommodation housing or other substantially similar class of habitation.

''(C) INSPECTION.—The employer may request a certificate of inspection by an approved Federal or State agency to the Secretary of Labor not later than 28 days before a worker is scheduled to occupy housing described in subparagraph (B). Such an inspection, and any necessary follow up, including at least 1 follow up visit, shall be performed by the Wage and Hour Division of the Department of Labor in a timely manner not later than 28 days after such a request.

''(D) RULEMAKING.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) HOUSING ALLOWANCE.—

''(i) AUTHORITY.—If the Governor of a State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed in agricultural work, an employer in such State may, in lieu of offering housing pursuant to subparagraph (A), provide a reasonable housing allowance. An employer who provides a housing allowance to a worker shall not be required to reserve housing accommodations for the worker.

''(ii) ASSISTANCE IN LOCATING HOUSING.—Upon the request of a worker seeking assistance in locating housing, an employer providing a housing allowance under clause (i) shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment.

''(iii) LIMITATION.—A housing allowance may not be used for housing that is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protect Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

''(iv) OTHER REQUIREMENTS.—

''(I) NONMETROPOLITAN COUNTY.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the state-wide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTY.—If the place of employment of the workers provided an allowance under this subparagraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(v) INFORMATION.—If the employer provides a housing allowance to H–2A employees, the employer shall provide a list to the Secretary of Homeland Security and the Secretary of Labor of the names and local addresses of such workers.

''(4) REIMBURSEMENT OF TRANSPORTATION COSTS.—

''(A) REQUIREMENT FOR REIMBURSEMENT.—A worker who completes 50 percent of the period of employment of the job for which the worker was hired, beginning on the first day of such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from—

''(i) the place from which the worker was approved to enter the United States to the location at which the work for the employer is performed; or

''(ii) if the worker traveled from a place in the United States at which the worker was last employed, from such place of last employment to the location at which the work for the employer is performed.

''(B) TIMING OF REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment under subparagraph (A) shall be considered timely if such reimbursement is made not later than the worker's first regular payday after a worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

''(C) ADDITIONAL REIMBURSEMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the work site to the place where the worker was approved to enter the United States to work for the employer. If the worker has contracted with a subsequent employer, the previous and subsequent employer shall share the cost of the worker's transportation and subsistence from work site to work site.

''(D) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided to a worker or alien under this paragraph shall be equal to the lesser of—

''(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(E) REIMBURSEMENT FOR LAID OFF WORKERS.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide—

''(i) the transportation and subsistence required under subparagraph (C); and

''(ii) notwithstanding whether the worker has completed 50 percent of the period of employment, the transportation reimbursement required under subparagraph (A).

''(F) TRANSPORTATION.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker in accordance with applicable laws and regulations.

''(G) CONSTRUCTION.—Nothing in this paragraph shall be construed to require an employer to reimburse visa, passport, consular, or international border-crossing fees incurred by the worker or any other fees associated with the worker's lawful admission into the United States to perform employment.

''(5) EMPLOYMENT GUARANTEE.—

''(A) IN GENERAL.—

''(i) REQUIREMENT.—Each employer applying for workers under subsection (b) shall guarantee to offer the worker employment for the hourly equivalent of not less than 75 percent of the work hours during the total anticipated period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer.

''(ii) FAILURE TO MEET GUARANTEE.—If the employer affords the United States worker or the H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned if the worker had worked for the guaranteed number of hours.

''(iii) PERIOD OF EMPLOYMENT.—For purposes of this subparagraph, the term 'period of employment' means the total number of anticipated work hours and work days described in the job offer and shall exclude the worker's Sabbath and Federal holidays.

''(B) CALCULATION OF HOURS.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work

day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) LIMITATION.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

''(D) TERMINATION OF EMPLOYMENT.—

''(i) IN GENERAL.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required due to any form of natural disaster, including flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease, pest infestation, regulatory action, or any other reason beyond the control of the employer before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment.

''(ii) REQUIREMENTS.—If a worker's employment is terminated under clause (i), the employer shall—

''(I) fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed during the period beginning on the first work day after the arrival of the worker and ending on the date on which such employment is terminated; and

''(II) make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

''(l) DISQUALIFICATION.—

''(1) IN GENERAL.—Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the previous 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

''(2) WAIVERS.—

''(A) IN GENERAL.—An alien seeking admission under section 101(a)(15)(H)(ii)(a) while outside of the United States shall not be deemed inadmissible under such section by reason of—

''(i) paragraph (1);

''(ii) section 212(a)(6)(C), if such alien has previously falsely represented himself or herself to be a citizen of the United States for the purpose of agricultural employment; or

''(iii) section 212(a)(9)(B), unless such alien was deported from the United States.

''(B) EFFECTIVE PERIOD OF WAIVER.—If an alien is admitted to the United States as a result of a waiver under subparagraph (A), such waiver shall remain in effect until the alien subsequently violates—

''(i) a material provision of this section; or

''(ii) a term or condition of admission into the United States as a nonimmigrant.

''(m) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—An H–2A alien shall be admitted for an 11-month period of employment, excluding—

''(A) a period of not more than 7 days before the beginning of the period of employment for the purpose of travel to the work site; and

''(B) a period of not more than 14 days after the period of employment for the purpose of departure or extension based on a subsequent offer of employment.

''(2) EMPLOYMENT LIMITATION.—An alien may not be employed during the 14-day period described in paragraph (1)(B) except in the employment for which the alien was previously authorized.

''(3) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary of Homeland Security to extend the stay of an alien under any other provision of this Act.

''(n) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status—

''(A) shall have failed to maintain nonimmigrant status as an H–2A worker; and

''(B) shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—Not later than 24 hours after the premature abandonment of employment by an H–2A worker, the employer or association acting as an agent for the employer shall notify the Secretary of Homeland Security of such abandonment.

''(3) REMOVAL.—The Secretary of Homeland Security shall ensure the prompt removal from the United States of any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate the alien's employment if the alien promptly departs the United States upon termination of such employment.

''(o) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon notification under subsection (n)(2)—

''(A) the Secretary of State shall promptly issue a visa to an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment; and

''(B) the Secretary of Homeland Security shall admit such alien into the United States.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference for which United States workers are eligible under this Act.

''(p) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide each alien authorized to be an H–2A worker with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

''(A) authorizes the alien's entry into the United States;

''(B) serves, for the appropriate period, as an employment eligibility document; and

''(C) verifies the identity of the alien through the use of at least 1 biometric identifier.

''(2) REQUIREMENTS.—The document required for all aliens authorized to be an H–2A worker—

''(A) shall be capable of reliably determining whether—

''(i) the individual with the document is in fact eligible for employment as an H-2A worker;

''(ii) the individual with the document is not claiming the identity of another person; and

''(iii) the individual with the document is authorized to be admitted into the United States; and

''(B) shall be compatible with—

''(i) other databases of the Secretary of Homeland Security to prevent an alien from obtaining benefits for which the alien is not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(q) EXTENSION OF STAY OF H–2A WORKERS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—

''(A) AUTHORITY.—An employer may petition to extend an H–2A worker's stay for up to 2 consecutive contract periods before the alien is required to return to the alien's country of nationality or country of last residence.

''(B) REQUEST AN EXTENSION.—If an employer seeks to employ, or continue to employ, an H–2A worker who is lawfully present in the United States, the employer or association shall request an extension of the alien's stay not later than 14 days before the expiration of the period of authorized employment.

''(C) LIMITATIONS.—An extension of stay under this subsection—

''(i) may only commence upon the termination of the H–2A worker's contract with an employer;

''(ii) may be effective immediately following the termination of a prior contract; and

''(iii) may not exceed 11 months, excluding the 14-day period provided for travel or extension due to subsequent employment.

''(D) RETURN TO FOREIGN COUNTRY.—

''(i) REQUIREMENT TO RETURN.—At the conclusion of 3 contract periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for a period of not less than 6 months.

''(ii) REENTRY.—The alien may become eligible for reentry into the United States as an H–2A worker after working in the United States for 2 contract periods and remaining the alien's country of nationality or country of last residence for not less than 4 months. The alien may also be eligible for re-entry to the United States as an H–2A worker after working in the United States for 1 contract period and remaining in the alien's country of nationality or country of last residence for not less than 2 months.

''(2) WORK AUTHORIZATION.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States on the date of the filing of a petition to extend the stay of the alien may commence or continue the employment described in a petition under paragraph (1). The employer shall provide a copy of the employer's petition for extension of stay to the alien. The alien shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(B) EMPLOYMENT ELIGIBILITY DOCUMENT.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(C) FILE DEFINED.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivering by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition for an extension of stay.

''(r) SPECIAL RULE FOR ALIENS EMPLOYED AS LIVESTOCK WORKERS.—Notwithstanding any other provision of this section, an alien admitted as an H–2A worker for employment as a sheepherder, goatherder, livestock worker, or dairy worker may be admitted for a period of up to 2 years.

''ADMISSION OF CROSS-BORDER H–2AA WORKERS

''SEC. 218A. (a) DEFINITION.—In this section, the term 'H–2AA worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) who participates in the cross-border worker program established under this section.

''(b) INCORPORATION BY REFERENCE.—

''(1) IN GENERAL.—Except as specifically provided under paragraph (2), the provisions under section 218 shall apply to H–2AA workers.

''(2) EXCEPTIONS.—The provisions under subsections (b)(1)(B), (k)(2)(B), (k)(3), (k)(4) (except for subparagraph (G)), and (r) of section 218 shall not apply to H–2AA workers.

''(c) MANDATORY ENTRY AND EXIT.—An H–2AA worker who complies with the provisions of this section—

''(1) may enter the United States each scheduled work day, in accordance with regulations promulgated by the Secretary of Homeland Security; and

''(2) shall exit the United States before the end of each day of such entrance.''.

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is adding after the item relating to section 218 the following:

''Sec. 218A. Admission of cross-border H–2AA workers.''.

(b) RULEMAKING.—

(1) ISSUANCE OF VISAS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to provide for uniform procedures for the issuance of visas by United States consulates and consular officials to nonimmigrants described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) H–2AA BORDER CROSSINGS.—The Secretary of Homeland Security shall promulgate regulations to establish a process for workers authorized to work in the United States under section 218A of the Immigration and Nationality Act, as added by subsection (a), to ensure that such workers expeditiously enter and exit the United States during each work day.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 223. LEGAL ASSISTANCE FROM THE LEGAL SERVICES CORPORATION.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) LEGAL ASSISTANCE.—(1) Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

''(2) The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

''(A) is described in subsection (a); and

''(B) is present in the United States at the time the legal assistance is provided.

''(3)(A) No party may bring a civil action for damages or other complaint on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) unless—

''(i) the party makes a request to the Federal Mediation and Conciliation Service or an equivalent State program (as defined by the Secretary of Labor) not later than 90 days before bringing the action to assist the parties in reaching a satisfactory resolution of all issues involving parties to the dispute; and

''(ii) the parties to the dispute have attempted, in good faith, mediation or other non-binding dispute resolution of all issues involving all such parties.

''(B) If the mediator finds that an agricultural employer, agricultural association, or farm labor contractor has corrected a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) or of a regulation under such Act not later than 14 days after the date on which such agricultural employer, agricultural association, or farm labor contractor was notified in writing of such violation, no action may be brought under such Act with respect to such violation.

''(C) Any settlement reached through the mediation process described in subparagraph (A) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding.

''(4) An employer of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) shall not be required to permit any recipient of grants or contracts under section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f), or any employee of such recipient, to enter upon the employer's property unless such recipient or employee has a prearranged appointment with a particular worker.

''(5) The employer of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) shall post the contact information of the Legal Services Corporation in the dwelling and at the work site of each nonimmigrant employee.

''(6) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this subsection.''; and

(2) by adding at the end the following:

''(g)(1) If a defendant prevails in an action under this section in which the plaintiff is represented by an attorney who is employed by the Legal Services Corporation or any entity receiving funds from the Legal Services Corporation, such entity or the Legal Services Corporation shall award to the prevailing defendant fees and other expenses incurred by the defendant in connection with the action.

''(2) As used in this subsection, the term 'fees and other expenses' has the meaning given the term in section 504(b)(1)(A) of title 5, United States Code.

''(3) The court shall take whatever steps necessary, including the imposition of sanctions, to ensure compliance with this subsection.''.

Subtitle C—Blue Card Program

SEC. 231. ADMISSION OF NECESSARY AGRICULTURAL WORKERS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218A, as added by section 222, the following:

''BLUE CARD PROGRAM

''SEC. 218B. (a) DEFINITIONS.—As used in this section—

''(1) the term 'agricultural employment' means any service or activity that is considered agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)), and labor and services relating to commodities, livestock, dairy, forestry, landscaping, fishing, and the processing of meat, poultry, and fish;

''(2) the term 'blue card status' means the status of an alien who has been—

''(A) lawfully admitted for a temporary period for agricultural employment under subsection (b); and

''(B) issued a tamper-resistant, machine-readable document that—

''(i) serves as the alien's visa, employment authorization, and travel documentation; and

''(ii) contains such biometrics as are required by the Secretary;

''(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

''(4) the term 'Secretary' means the Secretary of Homeland Security; and

''(5) the term 'United States worker' means any worker, including a national of the United States, a lawfully admitted permanent resident alien, and any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a);

''(B) an alien admitted or otherwise provided status as an H–2AA worker; and

''(C) an alien provided status under this section.

''(b) BLUE CARD PROGRAM.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may confer blue card status upon an alien who qualifies under this subsection if, not later than 6 months after the date of enactment of this section, the petitioning employer attests and the Secretary determines that the alien—

''(A) performed at least 1600 hours of agricultural employment in the United States for that employer during 2005;

''(B) except as otherwise provided under paragraph (2), is otherwise admissible to the United States under section 212; and

''(C) has never been convicted of a felony or a misdemeanor in the United States.

''(2) DETERMINATION.—In determining an alien's eligibility for Blue Card status, the Secretary shall—

''(A) conduct a background investigation of the alien, including a review of evidence submitted by the petitioning employer in support of the attestation that the alien meets the minimum work requirements; and

''(B) interview the alien and require the alien to answer questions concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history and gang membership;

''(iii) immigration history;

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government;

''(v) voter registration history;

''(vi) claims to United States citizenship; and

''(vii) tax history.

''(3) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

''(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

''(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

''(C) the Secretary may not waive paragraph (1),(2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

''(4) PETITIONS.—

''(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a named petition for blue card status with the Secretary.

''(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

''(i) pay a registration fee of $3,000;

''(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition;

''(iii) include an affidavit signed by the beneficiary of the petition—

''(I) that certifies, under penalty of perjury under the laws of the United States, that the application and any evidence submitted with it is true and correct and that authorizes the release of any information contained in the petition and attached evidence for law enforcement purposes; and

''(II) that includes a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of Blue Card status, the alien agrees to waive any right to administrative or judicial review or appeal of a determination by the Department of Homeland Security regarding the alien's eligibility for Blue Card status; and

''(iv) provide an attestation, valid for not less than 60 days, that the employer—

''(I) conducted adequate recruitment in the area of intended employment before filing the petition; and

''(II) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

''(C) ADEQUATE RECRUITMENT.—

''(i) MINIMUM REQUIREMENT.—The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

''(I) places a job order with the America's Job Bank Program of the Department of Labor; and

''(II) places a Sunday advertisement in a newspaper of general circulation that is likely to be patronized by a potential worker in the area of intended employment.

''(ii) ADVERTISEMENT REQUIREMENT.—An advertisement under clause (i)(II) shall—

''(I) name the employer;

''(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(V) state the rate of pay, which must equal or exceed the wage paid to the H–2A employees in the occupation in the area of intended employment; and

''(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

''(D) ADJUDICATION OF PETITIONS.—The Secretary of Homeland Security shall ensure that—

''(i) the petitioning process is secure and incorporates anti-fraud protections; and

''(ii) all petitions for Blue Card status are processed not later than 12 months after the date of enactment of this section.

''(E) NOTIFICATION OF ADJUDICATION.—The Secretary shall provide notification of an adjudication of a petition filed for an alien to the alien and to the employer who filed such petition.

''(F) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

''(5) BLUE CARD STATUS.—

''(A) BLUE CARD.—

''(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

''(I) authorizes the alien's entry into the United States;

''(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment; and

''(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

''(ii) BIOMETRICS.—

''(I) SUBMISSION OF IDENTIFIERS.—After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers (such as a fingerprint and a digital photograph), as required by the Secretary, to an application support center, which the Secretary shall establish in each State.

''(II) PROCESS.—The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

''(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

''(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

''(I) eligible for employment;

''(II) claiming the identity of another person; and

''(III) authorized to be admitted; and

''(ii) compatible with—

''(I) other databases maintained by the Secretary to exclude aliens from benefits for which the aliens are not eligible and determine whether the alien is unlawfully present in the United States; and

''(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(C) AUTHORIZED TRAVEL.—

''(i) IN GENERAL.—An alien may make brief visits outside the United States during the period in which the alien is in blue card status, in accordance with such regulations as are established by the Secretary, in conjunction with the Secretary of State.

''(ii) READMISSION.—An alien may be readmitted to the United States after a visit described in clause (i) without having to obtain a visa if the alien presents the alien's blue card document.

''(iii) EFFECT OF TRAVEL.—Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

''(D) PORTABILITY.—

''(i) IN GENERAL.—During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

''(ii) EFFECT OF DENIAL.—If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

''(iii) FEE.—A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

''(E) ANNUAL CHECK IN.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

''(F) TERMINATION OF BLUE CARD STATUS.—The Secretary may terminate the blue card status of an alien upon a determination by the Secretary that—

''(i) without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i);

''(ii) the alien is convicted of a felony or a misdemeanor committed in the United States; or

''(iii) the alien is deportable or inadmissible under any other provision of this Act.

''(6) PERIOD OF AUTHORIZED ADMISSION.—

''(A) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

''(B) RETURN TO COUNTRY.—At the end of the period referred to in subparagraph (A), the alien shall return to the country of nationality or last residence.

''(C) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon returning to the country of nationality or last residence under subparagraph (B), the alien may apply for an H–2A visa, an H–2AA visa, or any other nonimmigrant visa.

''(D) REPORTING REQUIREMENT.—Not later than 24 hours after an alien with blue card status ceases to be employed by an employer, such employer shall notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

''(E) LOSS OF EMPLOYMENT.—

''(i) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for 60 or more consecutive days.

''(ii) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under clause (i) shall return to the country of the alien's nationality or last residence.

''(7) GROUNDS FOR ELIGIBILITY.—

''(A) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—If an alien having blue card status violates any term or condition of such status, the alien shall not be eligible for such status or for future immigrant and non-immigrant status, as determined by the Secretary.

''(B) ALIENS IN H–2A STATUS.—Any alien in lawful H–2A status between January 1, 2005 and December 31, 2006 shall be ineligible for blue card status.

''(8) BAR OF CHANGE OR ADJUSTMENT OF STATUS.—

''(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States.

''(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

''(i) files a petition to adjust status to legal permanent residence in the United States; or

''(ii) requests a consular processing for an immigrant or non-immigrant visa outside the United States.

''(9) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

''(c) SAFE HARBOR.—

''(1) SAFE HARBOR FOR ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

''(A) shall be granted employment authorization pending final adjudication of the petition;

''(B) may not be detained, determined inadmissible, or deportable, or removed pending final adjudication of the petition for blue card status, unless the alien commits an act which renders the alien ineligible for such blue card status; and

''(C) may not be considered an unauthorized alien (as defined in section 274(h)(3)) if

the alien is in possession of a copy of a petition for status until such petition is adjudicated.

''(2) SAFE HARBOR FOR EMPLOYER.—

''(A) TAX LIABILITY.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

''(B) EMPLOYMENT RECORDS.—An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such authorized aliens.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218A, as added by section 222, the following:

''Sec. 218B. Blue card program.''.

(c) PENALTIES FOR FALSE STATEMENTS.—Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) Any person, including the alien who is the beneficiary of a petition, who—

''(1) files a petition under section 218B(b)(3) of the Immigration and Nationality Act; and

''(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

''(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

''(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.''.

SEC. 232. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 5054. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5028 submitted by Mr. SALAZAR (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. OBAMA, Mr. REID, Mr. LEAHY, Mr. DURBIN, and Mr. CARPER) and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

Beginning on page 688, strike line 9 and all that follows through page 689, line 7.

SA 5055. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 1, insert '', consistent with and subject to all applicable regulations, laws, and provisions of the Constitution,'' after ''appropriate''.

SA 5056. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 96, after line 19, add the following:

SEC. 11. EXPEDITED REVIEW.

(a) IN GENERAL.—

(1) THREE-JUDGE DISTRICT COURT HEARING.—Any civil action challenging the legality of any provision of, or any amendment made by, this Act, shall be heard by a 3-judge panel in the United States District Court for the District of Columbia convened under section 2284 of title 28, United States Code. The exclusive venue for expedited review under this section shall be the United States District Court for the District of Columbia.

(2) APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the court of 3 judges in an action under paragraph (1) shall be reviewable as a matter of right by direct appeal to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed not later than 10 calendar days after such order or judgment is entered and the jurisdictional statement shall be filed not later than 30 calendar days after such order or judgment is entered.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under paragraph (1).

(b) OTHER PROVISION.—Notwithstanding any other provision of this Act, section 950k(b) of title 10, United States Code, shall read as follows:

''(b) REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter or section 11 of the Military Commissions Act of 2006, and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.''.

SA 5057. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 11. ANNUAL REPORT ON INTERROGATION OF ALIEN UNLAWFUL ENEMY COMBATANTS UNDER CUSTODY OR CONTROL OF THE UNITED STATES.

(a) ANNUAL REPORT REQUIRED.—Not later than January 31 each year, the Director of National Intelligence shall submit to Congress a report on the interrogation of alien unlawful enemy combatants under the custody or control of the United States during the preceding calendar year.

(b) ELEMENTS.—Each report under subsection (a) shall set forth, for the year covered by such report, the following:

(1) The types of interrogation methods utilized.

(2) The types of information gathered as a result of the interrogations.

(c) FORM OF REPORTS.—

(1) INTELLIGENCE COMMITTEES.—Each report under subsection (a) shall be provided to all members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives in the form of a written and oral classified briefing.

(2) CONGRESS GENERALLY.—Each report under subsection (a) shall be otherwise submitted to Congress in unclassified form, with a classified annex if appropriate.

(d) UNLAWFUL ENEMY COMBATANT DEFINED.—In this section, the term ''unlawful enemy combatant'' has the meaning given that term in section 948a(1) of title 10, United States Code, as amended by section 3 (as added by Senate amendment No. 5036).

SA 5058. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 83, strike line 1 and all that follows through page 93, line 4, and insert the following:

SEC. 6. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

''(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or''; and

(2) by adding at the end the following new subsection:

''(d) COMMON ARTICLE 3 VIOLATIONS.—

''(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

''(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

''(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

''(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

''(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

''(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

''(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

''(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

''(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

''(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

''(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

''(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

''(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

''(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

''(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

''(A) collateral damage; or

''(B) death, damage, or injury incident to a lawful attack.

''(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.''.

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

''(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign source of law shall be considered in defining or interpreting the obligations of the United States under this title.

''(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.''.

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

''(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.''.

SA 5059. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 83, strike line 1 and all that follows through page 93, line 4, and insert the following:

SEC. 6. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

''(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or''; and

(2) by adding at the end the following new subsection:

''(d) COMMON ARTICLE 3 VIOLATIONS.—

''(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

''(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

''(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

''(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

''(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

''(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

''(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

''(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

''(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

''(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

''(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

''(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

''(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

''(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

''(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

''(A) collateral damage; or

''(B) death, damage, or injury incident to a lawful attack.

''(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.''.

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

''(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign

source of law shall be considered in defining or interpreting the obligations of the United States under this title.

''(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.''.

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

''(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.''.

SA 5060. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5061. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 5, line 18, strike ''and'' and all that follows through line 20, and insert the following:

(3) the economic impact implementing such a system will have along the northern border; and

(4) the status of border security measures on the Blackfeet Reservation in Montana and recommendations for improving such measures.

SA 5062. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 5061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5063. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, line 2, strike the quotation marks and the second period and insert the following:

''(3)(A) Paragraph (1) shall not apply to an application for a writ of habeas corpus challenging the legality of the detention of an alien described in paragraph (1), including a claim of innocence, filed by or on behalf of such an alien who has been detained by the United States for longer than 1 year.

''(B) No second or successive application for a writ of habeas corpus may be filed by or on behalf of an alien described in paragraph (1).''.

SA 5064. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5065. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, line 2, strike the quotation marks and the second period and insert the following:

''(3)(A) Paragraph (1) shall not apply to an application for a writ of habeas corpus challenging the legality of the detention of an alien described in paragraph (1), including a claim of innocence, filed by or on behalf of such an alien who has been detained by the United States for longer than 1 year.

''(B) No second or successive application for a writ of habeas corpus may be filed by or on behalf of an alien described in paragraph (1).''.

SA 5066. Mrs. HUTCHISON (for herself and Mr. KYL) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 3, strike line 4 and all that follows through page 5, line 8, and insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

''(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

''(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

''(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

''(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

''(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

''(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

''(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

''(3) REPORTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

''(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.''.

SA 5067. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

''(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

''(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

''(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

''(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

''(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

''(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

''(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

''(3) REPORTS.—Not later than 366 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

''(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.''.

SA 5068. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

''(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

''(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

''(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

''(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

''(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

''(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

''(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

''(3) REPORTS.—Not later than 366 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

''(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.''.

SA 5069. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, in the item relating to section 950g, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 55, strike line 5 and all that follows through page 56, line 2, and insert the following:

''§ 950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

''(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

On page 56, beginning on line 3, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 56, beginning on line 9, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 57, beginning on line 4, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 57, beginning on line 13, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 58, beginning on line 2, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 58, beginning on line 7, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 59, beginning on line 4, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 59, beginning on line 10, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 80, beginning on line 11, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 81, between lines 20 and 21, insert the following:

(3) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking ''United States Court of Appeals for the District of Columbia Circuit'' each place it appears in paragraphs (3) and (4) and inserting ''United States Court of Appeals for the Armed Forces''.

SA 5070. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, strike the item relating to section 950f.

On page 46, below line 20, in the item relating to section 950g, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 51, beginning on line 14, strike ''Court of Military Commission Review under section 950f'' and insert ''United States Court of Appeals for the Armed Forces under section 950g''.

On page 52, line 8, strike ''950f'' and insert ''950g''.

On page 52, beginning on line 14, strike ''Court of Military Commission Review under section 950f'' and insert ''United States Court of Appeals for the Armed Forces under section 950g''.

On page 53, beginning on line 7, strike ''Court of Military Commission Review'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 54, line 15 and all that follows through page 57, line 14, and insert the following:

''§ 950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

''(c) RIGHT OF APPEAL.—The accused may appeal from a final decision of a military commission, and the United States may appeal as provided in section 950d of this title,

to the United States Court of Appeals for the Armed Forces in accordance with procedures prescribed under regulations of the Secretary.

''(b) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

''(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

''(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

''(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

''(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

''(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

''(c) REVIEW BY SUPREME COURT.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the Armed Forces in a determination under subsection (a).

On page 58, beginning on line 2, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 58, beginning on line 7, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 59, beginning on line 4, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 59, beginning on line 10, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 80, beginning on line 11, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 81, between lines 20 and 21, insert the following:

(3) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking ''United States Court of Appeals for the District of Columbia Circuit'' each place it appears in paragraphs (3) and (4) and inserting ''United States Court of Appeals for the Armed Forces''.

SA 5071. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, in the item relating to section 950g, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 53, beginning on line 22, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 56, strike lines 7 through 16 and insert the following:

''§ 950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

''(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1)(A) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

On page 58, beginning on line 10, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 58, beginning on line 16, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 59, beginning on line 24, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 60, beginning on line 4, strike ''United States Court of Appeals for the District of Columbia Circuit'' and insert ''United States Court of Appeals for the Armed Forces''.

On page 95, line 11, insert ''IN GENERAL.—'' before ''Section 1005(e)(3)''.

On page 96, between lines 11 and 12, insert the following:

(b) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking ''United States Court of Appeals for the District of Columbia Circuit'' each place it appears in paragraphs (3) and (4) and inserting ''United States Court of Appeals for the Armed Forces''.

SA 5072. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 2078, to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 5, insert the following:

(c) NEGOTIATED RULEMAKING.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) (as amended by subsection (b)) is amended by adding at the end the following:

''(d) RULEMAKING.—

''(1) IN GENERAL.—Not later than _____, 2007, the Commission shall promulgate such final regulations as the Commission determines to be necessary to carry out this Act.

''(2) EFFECTIVE DATE.—The final regulations promulgated pursuant to paragraph (1) shall take effect on the date of promulgation of the regulations.

''(3) NEGOTIATED RULEMAKING PROCEDURE.—

''(A) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Commission shall promulgate regulations pursuant to paragraph (1) in accordance with the negotiated rulemaking procedure under subchapter III of chapter 5, United States Code.

''(B) RULEMAKING COMMITTEE.—

''(i) ESTABLISHMENT.—The Commission shall establish a negotiated rulemaking committee in accordance with the procedure under subchapter III of chapter 5, United States Code, for the development of proposed regulations under this subsection.

''(ii) REQUIREMENTS.—In establishing the committee under clause (i), the Commission shall—

''(I) make such modifications to the applicable procedure under subchapter III of chapter 5, United States Code, as the Commission determines to be necessary to account for the unique government-to-government relationship between Indian tribes and the United States; and

''(II) ensure that the membership of the committee is composed only of—

''(aa) representatives of the Federal Government; and

''(bb) official representatives of Indian tribal governments, to be nominated by the Indian tribes that are subject to this Act.''.

SA 5073. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 5574, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Hospital GME Support Reauthorization Act of 2006''.

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by inserting ''and each of fiscal years 2007 through 2011'' after ''for each of fiscal years 2000 through 2005'';

(2) in subsection (e)(1), by striking ''26'' and inserting ''12'';

(3) in subsection (f)(1)(A)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iv) for each of fiscal years 2007 through 2011, $110,000,000.''; and

(4) in subsection (f)(2)—

(A) in the matter before subparagraph (A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(B)'';

(B) in subparagraph (B), by striking ''and'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(D) for each of fiscal years 2007 through 2011, $220,000,000.''.

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) ANNUAL REPORTING REQUIRED.—

''(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

''(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

''(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

''(II) such report fails to provide the information required under any clause of such subparagraph.

''(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

''(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

''(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

''(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

''(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

''(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

''(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

''(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

''(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

''(C) RESIDENTS.—The residents described in this subparagraph are those who—

''(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

''(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

''(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

''(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

''(ii) describing the results of the program carried out under this section; and

''(iii) making recommendations for improvements to the program.''.

(c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—

(1) in subsection (c)(2)(E)(ii), by striking ''described in subparagraph (C)(ii)'' and inserting ''applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year'';

(2) in subsection (e)(2), by striking the first sentence; and

(3) in subsection (e)(3), by striking ''made to pay'' and inserting ''made and pay''.

SA 5074. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the bill S. 3421, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2006, with each project to be carried out in the amount specified for that project:

(1) Restoration, new construction or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina in an amount not to exceed $636,000,000. The Secretary is authorized to carry out the project as a collaborative effort consistent with the New Orleans Collaborative Opportunities Study Group Report dated June 12, 2006.

(2) Restoration of the Department of Veterans Affairs Medical Center, Biloxi, Mississippi, and consolidation of services performed at the Department of Veterans Affairs Medical Center, Gulfport, Mississippi, in an amount not to exceed $310,000,000.

(3) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $98,000,000.

SEC. 2. EXTENSION OF AUTHORIZATION FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS AUTHORIZED UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.

Notwithstanding subsection (d) of section 221 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (Public Law 108–170; 117 Stat. 2050), the Secretary of Veterans Affairs may enter into contracts before September 30, 2009, to carry out each major medical facility project, as originally authorized by such section 221, as follows with each project to be carried out in the amount specified for that project:

(1) Construction of an outpatient clinic and regional office at the Department of Veterans Affairs Medical Center, Anchorage, Alaska, in an amount not to exceed $75,270,000.

(2) Consolidation of clinical and administrative functions of the Department of Veterans Affairs Medical Center in Cleveland, Ohio, and the Department of Veterans Affairs Medical Center in Brecksville, Ohio, in an amount not to exceed $102,300,000.

(3) Construction of the Extended Care Building at the Department of Veterans Affairs Medical Center in Des Moines, Iowa, in an amount not to exceed $25,000,000.

(4) Renovation of patient wards at the Department of Veterans Affairs Medical Center in Durham, North Carolina, in an amount not to exceed $9,100,000.

(5) Correction of patient privacy deficiencies at the Department of Veterans Affairs Medical Center, Gainesville, Florida, in an amount not to exceed $85,200,000.

(6) 7th and 8th Floor Wards Modernization addition at the Department of Veterans Affairs Medical Center, Indianapolis, Indiana, in an amount not to exceed $27,400,000.

(7) Construction of a new Medical Center Facility at the Department of Veterans Affairs Medical Center, Las Vegas, Nevada, in an amount not to exceed $406,000,000.

(8) Construction of an Ambulatory Surgery/Outpatient Diagnostic Support Center in the Gulf South Submarket of Veterans Integrated Service Network (VISN) 8 and completion of Phase I land purchase, Lee County, Florida, in an amount not to exceed $65,100,000.

(9) Seismic Corrections-Buildings 7 & 126 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $107,845,000.

(10) Seismic Corrections-Buildings 500 & 501 at the Department of Veterans Affairs Medical Center, Los Angeles, California, in an amount not to exceed $79,900,000.

(11) Construction of a New Medical Center facility in the Orlando, Florida, area in an amount not to exceed $377,700,000.

(12) Consolidation of Campuses at the University Drive and H. John Heinz III divisions, Pittsburgh, Pennsylvania, in an amount not to exceed $189,205,000.

(13) Ward Upgrades and Expansion at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed $19,100,000.

(14) Seismic Corrections-Building 1, Phase 1 Design at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $15,000,000.

(15) Construction of a Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Syracuse, New York, in an amount not to exceed $53,900,000.

(16) Upgrade Essential Electrical Distribution Systems at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $49,000,000.

(17) Expansion of the Spinal Cord Injury Center addition at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $7,100,000.

(18) Blind Rehabilitation and Psychiatric Bed renovation and new construction project at the Department of Veterans Affairs Medical Center, Temple, Texas, in an amount not to exceed $56,000,000.

SEC. 3. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2007 in the amount specified for each project:

(1) Seismic Corrections, Nursing Home Care Unit and Dietetics at the Department

of Veterans Affairs Medical Center, American Lake, Washington, in an amount not to exceed $38,220,000.

(2) Replacement of Operating Suite at the Department of Veterans Affairs Medical Center, Columbia, Missouri, in an amount not to exceed $25,830,000.

(3) Construction of a new clinical addition at the Department of Veterans Affairs Medical Center, Fayetteville, Arkansas, in an amount not to exceed $56,163,000.

(4) Construction of Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Milwaukee, Wisconsin, in an amount not to exceed $32,500,000.

(5) Medical facility improvements and cemetery expansion of Jefferson Barracks at the Department of Veterans Affairs Medical Center, St. Louis, Missouri, in an amount not to exceed $69,053,000.

SEC. 4. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Baltimore, Maryland, $10,908,000.

(2) For an outpatient clinic, Evansville, Illinois, $8,989,000.

(3) For an outpatient clinic, Smith County, Texas, $5,093,000.

SEC. 5. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient and specialty care clinic, Austin, Texas, $6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, $2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, $4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, $8,518,000.

(5) For an outpatient clinic, Parma, Ohio, $5,032,000.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2006 for the Construction, Major Projects, account, $1,044,000,000 for the projects authorized in section 1.

(b) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY PROJECTS UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $1,750,120,000 for the projects whose authorization is extended by section 2.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until September 30, 2009.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $221,766,000 for the projects authorized in section 3.

(d) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY LEASES.—

(1) FISCAL YEAR 2006 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, $24,990,000 for the leases authorized in section 4.

(2) FISCAL YEAR 2007 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Medical Care account, $26,642,000 for the leases authorized in section 5.

(e) LIMITATION.—The projects authorized in sections 1 and 2 may only be carried out using—

(1) funds appropriated for fiscal year 2006 or 2007 pursuant to the authorization of appropriations in subsections (a), (b), and (c) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2006 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2006 or 2007 that are available for obligation; and

(4) funds appropriated for Construction, Major Projects, for fiscal year 2006 or 2007 for a category of activity not specific to a project.

SEC. 7. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY PROJECTS.

(a) INCREASE.—Section 8104(a)(3)(A) of title 38, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply with respect to any fiscal year beginning on or after that date.

SEC. 8. EXPANSION OF ELIGIBILITY UNDER SURVIVORS' AND DEPENDENTS EDUCATIONAL ASSISTANCE PROGRAM.

(a) ELIGIBILITY FOR DEPENDENTS OF SERVICEMEMBERS.—

(1) CHILDREN.—Section 3501(a)(1)(A) of title 38, United States Code, is amended—

(A) in clause (ii) by striking ''or'' at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following clause (iii):

''(iii) is hospitalized or receiving outpatient medical care, services, or treatment pending discharge from the active military, naval, or air service for a total disability permanent in nature resulting from a service-connected disability (as determined by the Secretary), or''.

(2) SPOUSES.—Subparagraph (D) of section 3501(a)(1) of such title is amended to read as follows:

''(D)(i) the spouse of any veteran who has a total disability permanent in nature resulting from a service-connected disability,

''(ii) the spouse of any person who is hospitalized or receiving outpatient medical care, services, or treatment pending discharge from the active military, naval, or air service for a total disability permanent in nature resulting from a service-connected disability (as determined by the Secretary), or

''(iii) the surviving spouse of a veteran who died while a disability so evaluated was in existence,''.

(b) CONFORMING AMENDMENTS.—

(1) DURATION OF ASSISTANCE.—Section 3511 of such title is amended—

(A) in subsection (a)(1), by striking ''both sections 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii)'' and inserting ''sections 3501(a)(1)(D)(i), 3501(a)(1)(D)(ii), and 3501(a)(1)(D)(iii)'';

(B) in subsection (b)(2), by striking ''3501(a)(1)(A)(iii)'' and inserting ''3501(a)(1)(A)(iv)''; and

(C) in subsection (c), by striking ''3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i)'' and inserting ''3501(a)(1)(A)(iv), 3501(a)(1)(C), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii)''.

(2) PERIOD OF ELIGIBILITY.—Section 3512 of such title is amended—

(A) in subsection (a)(6), by striking ''3501(a)(1)(A)(iii)'' and inserting ''3501(a)(1)(A)(iv)'';

(B) in subsection (b)(1)(A), by striking ''3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title.'' and all that follows through the end, and inserting the following: ''or 3501(a)(1)(D) of this title. In the case of a surviving spouse made eligible by clause (iii) of section 3501(a)(1)(D), the 10-year period may not be reduced by any earlier period during which the person otherwise was eligible for educational assistance under this chapter as a spouse described in clause (i) or (ii) of that section.''; and

(C) in subsection (d), by striking ''veteran'' and inserting ''person''.

(3) EFFECTIVE DATES.—Section 5113(b)(3) of such title is amended by adding at the end the following new subparagraph:

''(D) The term 'veteran' includes a person as described in sections 3501(a)(1)(A)(iii) and 3501(a)(1)(D)(ii) of this title.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 26, 2006, at 4:30 p.m., in closed session for a briefing on the situation in Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 26, 2006, at 10 a.m. to conduct a hearing on ''An Update on the New Basel Capital Accord.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the committee on Commerce, Science, and Transportation be authorized to hold a full committee joint hearing with Foreign Relations Committee on the International Polar Year on Tuesday, September 26, 2006 at 3:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President: I ask unanimous cousent that on Tuesday, September 26th at 2:15 p.m. the Committee on Environment and Public Works be authorized to hold a Business Meeting to consider the following-agenda:

Legislation

H.R. 1463, To designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building'',

Nominations

Roger Romulus Martella, Jr. to be Assistant Administrator of the Environmental Protection Agency